SUPREME COURT OF NEW MEXICO

U.S. Xpress, Inc. v. State of New Mexico, New Mexico Taxation and Revenue Department and Jan Goodwin

136 P.3d 999, 139 N.M. 589 (2006) · No. No. 29,272 · Decided April 13, 2006

SUMMARY

The Supreme Court of New Mexico held that the Tax Administration Act requires each taxpayer seeking a tax refund to individually exhaust administrative remedies before challenging the tax in court. The court rejected vicarious or virtual exhaustion and held that the futility doctrine does not excuse compliance with the Act's clear exhaustion requirement. It reversed the Court of Appeals and affirmed the denial of class certification because the district court lacked subject matter jurisdiction over proposed class members who had not individually exhausted their remedies.

CASE DETAILS

COURT	Supreme Court of New Mexico
WRITING FOR THE COURT	Chavez, Justice; Richard C. Bosson, Chief Justice; Pamela B. Minzner, Justice; Patricio M. Serna, Justice; Petra Jimenez Maes, Justice
JURISDICTION	New Mexico
DECIDED	April 13, 2006
DOCKET	No. 29,272
DISPOSITION	reversed
PROCEDURAL POSTURE	The New Mexico Supreme Court reviewed the Court of Appeals' decision allowing a tax-refund class action to proceed based on exhaustion of administrative remedies by the named plaintiffs. The Department petitioned for review.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo.
PRECEDENTIAL VALUE	Published New Mexico Supreme Court opinion; precedential
PARTIES	State of New Mexico, New Mexico Taxation and Revenue Department, Jan Goodwin, Secretary of the New Mexico Taxation and Revenue Department v. U.S. Xpress, Inc., M.S. Carriers, Inc., Swift Transportation Company, Inc., Class of similarly situated taxpayers

TOPICS

tax refunds · tax court procedure · exhaustion of remedies · class actions · subject matter jurisdiction

PRACTICE AREAS

tax law · administrative law · civil procedure · constitutional law · appellate procedure

QUESTIONS PRESENTED

1. Whether the Tax Administration Act requires each taxpayer individually to exhaust administrative remedies before challenging the constitutionality of a tax in court.
2. Whether New Mexico courts should recognize vicarious, virtual, or representative exhaustion for absent members of a tax-refund class when the named plaintiffs have exhausted their own administrative remedies.
3. Whether the futility doctrine excuses individual exhaustion under the Tax Administration Act when the Department lacks authority to decide the constitutional issue or is expected to deny identical claims.
4. Whether Rule 1-023 NMRA permits class certification despite the Tax Administration Act's subject matter jurisdiction requirement.

HOLDINGS

1. The Tax Administration Act requires each taxpayer to individually pursue the statutory administrative remedy, including filing an individual refund claim, before challenging tax liability or the constitutionality of a tax in court.
2. New Mexico does not recognize vicarious, virtual, or representative exhaustion in a tax-refund class action under the Tax Administration Act.
3. The futility doctrine does not excuse the individual exhaustion requirement where the Tax Administration Act contains a clear legislative command requiring exhaustion.
4. The district court lacks subject matter jurisdiction over proposed class members who have not individually exhausted administrative remedies, and Rule 1-023 NMRA cannot overcome that jurisdictional limitation.

KEY QUOTATIONS

> *"Thus, not only is the exhaustion requirement of Section 7-1-22 a precondition to subject matter jurisdiction, as was held in Neff, 116 N.M. at 244, 861 P.2d at 285, but it also requires exhaustion by each individual taxpayer."* (1002-03)

> *"Therefore, we hold that the futility doctrine has no force in the context of the Tax Administration Act, in the face of the clear legislative command found in Section 7-1-22."* (1004)

> *"Each member of the class must individually exhaust, and only after individual exhaustion by each class member could the district court have jurisdiction over the class."* (1004)

> *"Therefore, we reverse the Court of Appeals and affirm the holding of the district court."* (1005)

FACTUAL BACKGROUND

Three interstate trucking companies sought refunds of four New Mexico road-related taxes and fees paid from 1997 through 2000, asserting that the assessments violated the Commerce Clause. The Department granted some refund claims for 1999 and 2000, denied older claims as untimely, and denied claims concerning the Motor Vehicle Division administrative fee. Approximately twenty-five additional trucking companies filed similar claims, but the proposed class was estimated to include more than three thousand companies, many of which had not filed individual refund claims or otherwise exhausted administrative remedies.

PROCEDURAL HISTORY

Three interstate trucking companies filed administrative refund claims challenging certain New Mexico taxes and fees on Commerce Clause grounds. After exhausting their own administrative remedies, they filed a class action and sought certification. The district court denied certification because unnamed class members had not individually exhausted administrative remedies and the court therefore lacked subject matter jurisdiction over their claims. The Court of Appeals reversed, holding that the named plaintiffs' exhaustion could provide virtual exhaustion for absent class members. The Supreme Court reversed the Court of Appeals and affirmed the district court.

DISPOSITION

reversed

CASES CITED

- Cooper v. Chevron U.S.A., Inc., 2002-NMSC-020, 132 N.M. 382, 49 P.3d 61
- Regents of the Univ. of N.M. v. N.M. Fed'n of Teachers, 1998-NMSC-020, 125 N.M. 401, 962 P.2d 1236
- General Motors Acceptance Corp. v. Anaya, 103 N.M. 72, 703 P.2d 169 (1985)
- Neff v. State Taxation and Revenue Department, 116 N.M. 240, 861 P.2d 281 (Ct. App. 1993)
- Ariz. Dep't of Revenue v. Dougherty, 200 Ariz. 515, 29 P.3d 862 (2001)
- Fair Assessment in Real Estate Ass'n, Inc. v. McNary, 454 U.S. 100, 102 S. Ct. 177, 70 L. Ed. 2d 271 (1981)
- Derringer v. Turney, 2001-NMCA-075, 131 N.M. 40, 33 P.3d 40
- Sims v. Sims, 1996-NMSC-078, 122 N.M. 618, 930 P.2d 153
- Madrid v. St. Joseph Hosp., 1996-NMSC-064, 122 N.M. 524, 928 P.2d 250
- State ex rel. Norvell v. Credit Bureau of Albuquerque, Inc., 85 N.M. 521, 514 P.2d 40 (1973)
- Chavez v. City of Albuquerque, 1998-NMCA-004, 124 N.M. 479, 952 P.2d 474
- Shepard v. Bd. of Educ. of Jemez Springs Mun. Schools, 81 N.M. 585, 470 P.2d 306 (1970)
- McDowell v. Napolitano, 119 N.M. 696, 895 P.2d 218 (1995)
- Smith v. Southern Union Gas Co., 58 N.M. 197, 269 P.2d 745 (1954)
- Stone v. Errecart, 165 Vt. 1, 675 A.2d 1322 (1996)
- Romero v. Philip Morris Inc., 2005-NMCA-035, 137 N.M. 229, 109 P.3d 768
- Gonzales v. Surgidev Corp., 120 N.M. 133, 899 P.2d 576 (1995)

- El Dorado Utils. Inc. v. Galisteo Domestic Water Users Ass'n, 120 N.M. 165, 899 P.2d 608 (Ct. App. 1995)
- Silva v. State, 106 N.M. 472, 745 P.2d 380 (1987)
- In re Application of Angel Fire Corp., 96 N.M. 651, 634 P.2d 202 (1981)
- U.S. Xpress, Inc. v. N.M. Taxation & Revenue Department, 2005-NMCA-091, 138 N.M. 55, 116 P.3d 846

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